

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

GARY MOLEN, :
 :
 Petitioner, : Case No. 3:11-cv- 304
 :
 vs. :
 : JUDGE WALTER HERBERT RICE
 DEB TIMMERMAN-COOPER, Warden, :
 :
 Respondent :

DECISION AND ENTRY ADOPTING UNITED STATES MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATIONS (DOC. #16);
OVERRULING PETITIONER'S OBJECTIONS THERETO (DOC. #18);
DISMISSING WITH PREJUDICE PETITION FOR A WRIT OF HABEAS
CORPUS (DOC. #2); DENYING ANTICIPATED REQUEST FOR
CERTIFICATE OF APPEALABILITY AND MOTION FOR LEAVE TO
PROCEED *IN FORMA PAUPERIS*; TERMINATION ENTRY

Based on the reasoning and citations of authority set forth by United States Magistrate Judge Michael R. Merz, in his Report and Recommendations, filed May 22, 2012 (Doc. #16), as well as upon a thorough *de novo* review of this Court's file and the applicable law, this Court adopts said judicial filing in its entirety, and overrules Petitioner's objections thereto (Doc. #18). The Petition for a Writ of Habeas Corpus (Doc. #2) is dismissed with prejudice.

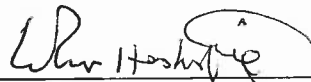
Given that Petitioner has not made a substantial showing of the denial of a constitutional right and, further, that the Court's decision herein would not be debatable among reasonable jurists, and because any appeal from this Court's decision would be

objectively frivolous, Petitioner is denied a certificate of appealability and denied leave to appeal *in forma pauperis*.

Judgment will be entered in favor of Respondent and against Petitioner.

The captioned case is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

Date: September 28, 2012



WALTER HERBERT RICE
UNITED STATES DISTRICT JUDGE